IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 20513 of 2006

DATED: 27.10.2006

Between:

V.Nataraja Chari **petitioner**

And

The Regional manager,
APSRTC, Tirupati Region,
Chittoor and another **Respondents**

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 20513 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the proceedings dated 24.2.2006 insofar as not paying the gratuity amount for the out of service period.

The petitioner was employed in the respondent corporation as conductor. He was terminated from services by order dated 1.4.1986. Questioning the termination order, petitioner raised an Industrial Dispute, which was registered as I.D. No. 15 of 1990 on the file of the Industrial Tribunal cum Labour Court, Anantapur. The Labour Court on consideration of the matter, passed an award dated 4.1.1991 directing the respondents to reinstate the workman with continuity of service but without backwages. It is also ordered that the workman is not entitled to increments without cumulative effect in his service and that he has to be reduced by three places in the seniority list. In terms of the award, the petitioner was reinstated into service in the month of March, 1991. Thereafter, the petitioner was declared medically unfit to hold the post and accordingly retired on medical grounds vide order dated 20.5.2003. The petitioner claims that the Labour Court by its award dated 4.1.1991 directed reinstatement with continuity of service and he is entitled to receive the gratuity for the period out of service and the same was denied to him vide impugned proceedings dated 24.2.2006. Hence, the present writ petition.

Learned counsel for petitioner submitted that the issue raised in the present writ petition is squarely covered by the orders of this Court in **M.Rama Rao Vs. Assistant Traffic Manager, APSRTC, Hyderabad and another** [1].

This Court in M.Rama Rao's case held that the management could not deny payment of gratuity to the employee on his retirement for the period for which he was out of employment as a result of order of removal. The relevant portion reads as under;

> "……since the industrial Court has granted to the petitioner the continuity of service, it should be held that for all practical purposes the petitioner should be deemed to have been in continuous service
> all-through. If that is so, there is no justification to exclude the period between 22.4.1967 and 26.6.1985 for the purpose of computation of the gratuity payable to the petitioner."

In the present case also, the Labour Court directed reinstatement of the workman with continuity of service but without backwages and the writ petition is squarely covered by the judgment of this Court in M.Rama Rao case (cited supra). Hence, the impugned order dated 24.2.2006 denying the gratuity during the removal period is liable to be set aside and the same is hereby set aside.

Accordingly, the writ petition is allowed. The respondents are directed to take necessary steps for settlement of the gratuity of the petitioner, including the removal period. No costs.

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N.V.RAMANA,J

DATE: 27.10.2006
TVK

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[1] 1998 (3) ALD 76